

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JEVON EVERETT

Plaintiff,

Part A1

AMENDED COMPLAINT
CIVIL ACTION No. 10-561

v.

Individually and in their official capacities,

CORRECTIONAL OFFICER NORT,
CORRECTIONAL OFFICER PINDEL,
SERGEANT MOORE, SERGEANT
RUBEL, SERGEANT KENGERSKI,
ALLEGHENY COUNTY JAIL,
SERGEANT COULTER,
CORRECTIONAL OFFICER
CHRONISTER,
WARDEN RAMON RUSTIN
and ALLEGHENY COUNTY HEALTH
SERVICES, INC.

Defendants,

AMENDED COMPLAINT

JURISDICTION & VENUE

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343 (a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284 and Rule 65 of the Federal Rules of Civil Procedure.

2. The United States District Court of the Western District Court is an appropriate venue under 28 U.S.C. Section 1391 (b)(2) because it is where the events giving rise to this claim occurred.

II. PLAINTIFFS

3. Plaintiff, Jevon Everett, is and was at all times mentioned herein a prisoner of the State of Pennsylvania in the custody of the Pennsylvania Department of Corrections. He is currently confined in Graterford, in Montgomery Pennsylvania.

III. Defendants

4. Defendants, Ramon Rustin, was the Warden Allegheny County Jail of Pittsburgh Pennsylvania. He was legally responsible for the overall operation of the Allegheny County Jail and Governor Ed. Rendall was the Governor / Commissioner of the Pennsylvania Department of Correction, and now Commission has expired. Governor Tom Corbit is now holding office as Governor in Pennsylvania and responsible for the overall operation of the Department and each institution under its jurisdiction, including Allegheny County jail where plaintiff was confined. Plaintiff filed an Original Complaint against Warden Ramon Rustin on April 23, 2010, yet Defendant has not responded. (See Exhibit E.).

5. Defendant, Warden Ramon Rustin, is the Superintendent / Warden of Allegheny County jail. He is legally responsible for the operation of Allegheny County jail and for the welfare of all the inmates in that jail.

6. Defendants, Warden Ramon Rustin, Sgt. Coulter, Sgt. Rubel, Sgt. Kengerski, C.O. Pindel, C.O. Chronister, Sgt. Moore, C.O. Nort, Allegheny County Jail, Allegheny Correctional Health Services, INC., and other unknown Correctional officers, They all are employed as Staff and Correctional Officers of the Pennsylvania Department of Corrections who at, all times mentioned in this complaint, held the rank of Warden, Sergeant, and Correctional Officers, and Allegheny Correctional Health Services, Inc. and was assigned to Allegheny County Jail.

7. Each defendant is sued individually and in his or her official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

IV. FACTS

8. On April 13, 2008, between 11:00am and 5:00pm, at the Allegheny County Jail on Pod 7E. Correctional Officer Nort, requested plaintiff and everyone on Pod 7E to give a Biometric Finger Print to Allegheny County Jail. There were two African American Females and one other African American Female who was equipped with two Dell Computers and Scanner attachments. The other unknown African American Female had a many boxes filled with Honey Buns, and were given them out to inmate that complied with the request and gave their Biometric Finger Prints as an incentive to give their Biometric Finger Prints. None were given to the ones that refused Biometric Finger Prints, because Correctional Officer Nort had stated to inmate on 7E that if they were to voluntarily give up their Biometric Finger Prints that they would receive a Honey Bun from the Female that had the boxes of Honey Buns, and if we didn't voluntarily give up our Biometric Finger Prints we were going to be place in the Disciplinary Housing unit and not receive a Honey Bun. Then we would be forced to comply and that who ever did not give the African American Females their Biometric Finger Prints would be subjected to force and have them forcibly taken from them by any means necessary.

9. Upon this information from Correctional Officer Nort, there became airy feelings from the inmates including plaintiff, all this was said while we where locked in our cells and upon this information inmates started kicking and rattling their cell doors.

10. So Corectional Officer Nort started opening cell doors one at a time and upon the cell doors opening we were told to come get a Honey Bun. Plaintiff watched as the doors were being opened and each inmate came out and walked over to the Female with the boxes of Honey Buns and was told By Officer Nort that they had to give their Biometric Finger Print up to the other Black females to be Scanned first and then a Honey Bun would be given to them.

11. Plaintiff was in Cell 223 on Pod 7E so it took a while for plaintiff to be called down to decide what plaintiff would do. Plaintiff Started Praying to Jehovah God,. The feeling plaintiff felt was that they were doing **something illegal**. So plaintiff decided not to take the Honey Bun.

12. So when Plaintiff's Cell door opened. C.O. Nort told plaintiff to come down and get a Honey Bun. Plaintiff did leave the cell #223 and came down and stood in line as told to. But when plaintiff saw what was happening and that inmates where being Scanned for fingerprints with a Computer Scanner. Plaintiff stepped to the side and asked Correctional Officer Nort. What was the reason for Biometric Finger Printing being done? Correctional Officer Nort replied that the Jail had installed new Keefe Commissary Boxes throughout the Allegheny County Jail and that the New System was doing away with the Bubble Sheets, which was the old way for taking Commissary. Plaintiff explained to Officer Nort that plaintiff does not received commissary and that plaintiff did not have funds on his account and plaintiff did not want commissary. Therefore there was no reasoned to be scanned for Biometric Finger Prints from the two African American Females. C.O. Nort said that everyone had to do it and that if plaintiff refused plaintiff would be placed in D.H.U. and later be force to comply by any means necessary.

13. Plaintiff explained to Officer Nort that plaintiff does not have funds on account and that it was against plaintiff's religion to give Boimetric Finger Prints for any other reason than being booked and charged. C.O. Nort said that it was for the New Keefe Commissary System and that plaintiff had no choice, that everyone was doing it. Plaintiff explained that plaintiff had given his Finger Prints in the Intake Department when plaintiff was first brought in to the Alleghheny County Jail and that if they needed plaintiff's finger prints there was a set down stairs in Intake. Plaintiff also explained that taking plaintiff's Biometric Finger Prints were Un-Constitutional and against the 1, 3, 4, 5, 6, 8, 9, 13, 14TH Amendments. That illegally taking of fingerprints could be used against plaintiff or sold to an unknown venders. Plaintiff is a pre-trial detainee with every available Constitutional right of the 14th Amendment, and innocent until proven guilty.

14. C.O. Nort got upset and told plaintiff to go to plaintiff's cell and plaintiff would be locked in.

15. Plaintiff complied and went back to plaintiff's Cell #223, and C.O. Nort double locked the cell door. Plaintiff was locked in that day and transferred the next day to D.H.U. and Stripped Searched on Pod 8E and then taken to cell # 226 and doubled locked in.

16. "Upon information and Belief", plaintiff was then approached by Sergeant Coulter and Correctional Officer Pindel on Pod 8E in cell #226 with a tall can of Fogging Mace and a taser and asked plaintiff to give up his Biometric Finger Prints, Sgt. Coulter shooked the can of mace and then pointed it in the cell. Plaintiff closed his eyes and then was sprayed with mace and then plaintiff

opened his eyes to find a red beam pointed at plaintiff and a red dot over plaintiff's heart. Plaintiff pleaded to Sgt. Coulter and C.O. Pindel that this wasn't right and that plaintiff's Due Process Rights were being violated. Plaintiff was then escorted and dragged to Sally Port where Correctional Officer and twenty unknown officers stood by waiting with Sgt. Rubel who standing along with the two African American Females with Dell Computers and Scanners. Plaintiff explained to everyone there that plaintiff doesn't receive commissary and therefore did not want to be Biometrically Scanned by the two women. Plaintiff told Sgt. Coulter that plaintiff had rights and was a pre-trial detainee with the same rights as anyone else. Plaintiff asked that his lawyer be present and plaintiff needed to consult with him as to his advice on being Scanned and Finger Printed and possibly be used against plaintiff or who knows what else. **(See Exhibit A).**

17. Upon information and belief, Sergeant Rubel directed C.O. Chronister and another unknown C.O. to retrieve Restraint Chair from the Intake Department and bring the Restraint Chair to D.H.U. to restrain plaintiff for purposes of taking plaintiff's Finger Prints against plaintiff's will and without plaintiff's counsel's knowledge. **(See Exhibit A).**

18. Upon information and belief, plaintiff was forcibly assaulted and battered and placed in Restrained chair by all twenty officer. Sgt. Rubel then tasered plaintiff under plaintiff's right arm (Rib Cage area) taser burst lasted for (5) five seconds. Plaintiff screamed and shook uncontrollably. Sgt. Rubel then used the taser again on top of plaintiff's heart for (5) five seconds until taser's charge was emptied. Sgt. Rubel then asked Sgt. Coulter for his taser and placed Sergeant Coulter's taser behind plaintiff's head on neck area and tasered plaintiff at the base of brain whereby plaintiff urinated and deficated on himself. Sgt. Rubel threaten to place taser on plaintiff's head and then placed taser on plaintiff's head and plaintiff begged Sgt. Rubel to stop the abuse. Sgt. Rubel placed the taser on top of plaintiff's head and said "I'm going to give you one last chance to give these two lovely ladies your finger prints or else I'm going to use this taser on your head and it might kill you" **(See Exhibit D. Video Tape).**

19. Sergeant Rubel then pulled the taser trigger to which it was emptied and no charge came out. Thats when Sgt. Rubel asked Sgt. Coulter for another taser, to which Sgt. Coulter stated "there are no more. You used them all up!

20. Upon information and belief that when Correctional Officer Pindel stated "Give me his fucking fingers, I'll break everyone of then until he gives us his finger prints", That when C.O. Pindel started breaking plaintiff's finger one by one until plaintiff could no longer control his fingers **(See Exhibit D, Video Tape).**

21. The Women with the Scanners started crying and stated "Mr. Everett, please give us your finger prints before they kill you". The Scanners doesn't hurt, Mr. Everett".

22. That's when C.O. Pindel said "Take his finger prints now", and held plaintiff's fingers to be Biometrically Finger Printed. To which the plaintiff's Biometric Finger Prints were physically taken by the two women. Plaintiff was then released from the Restraint Chair and teased by the Serdeants and all twenty Correctional Officer saying things like "He cried like a baby", take him to his cell.

23. Plaintiff was dragged to cell #226 in D.H.U. and thrown on the floor. Plaintiff was not Medically cleared before and after the use of weapons (Taser and Restraints) used on plaintiff as described in the Policy, Rules and Regulation Hand Book and Rule Books or Medical Policy concerning the use of Weapons (Taser and Restraints) on Inmates, (See Exhibit C.).

24. Plaintiff suffered migrains, a quivering voice box, Chest pains, Heart pains, Weasing lungs, broken fingers, a hole in buttocks, and PTSD.

25. Upon information and belief, plaintiff requested to see medical through the use of request slips and also talked to medical nurses that Plaintiff suffered taser wounds, hole in buttocks, migrains, a quivering throat, broken fingers and medical nurses suggested that plaintiff just be quite before things get worst and plaintiff get hurt more by the officers.

26. Medical nurses stated to plaintiff "Mr. Everett, I'm not allowed to do anything for you, I know your in pain, but please do yourself a favor and just be quiet and lie down. Here are a few Moltrins they are 800 ml.grams take two now and please be quite".

27. Plaintiff tied fingers together with shoelaces and packed hole wound in rear buttocks with toilet paper thereby plaintiff cleaned the pus and blood until hole closed. Plaintiff's throat quivered for days, and plaintiff still to this day have migrain headaches. Plaintiff's chest, neck, and right ribs had burn marks and soars for weeks that leaked with pus and blood.

28. Upon information and belief, plaintiff would like permission to add four defendants who names are Warden Ramon Rustin, (Person Legally responsible for plaintiff and all defendants), Sergeant Coulter, and Correctional Officer Chronister (participants and witnesses), ALLEGHENY CORRECTION HEALTH SERVICES, INC., to the \$ 1983 Civil Suit (See Exhibits A, and B,).

29. Plaintiff request that Sergeant Kengerski and Sergeant Moore be removed from Civil Suit due to plaintiff's discovery that do not list these Defendants as participants at the scene in the Civil Suit. Plaintiff would like to apologize for any inconvenience that plaintiff may have cause Sergeant Kengerski, and Sergeant Moore. Plaintiff feels that it is only right to ask that these two defendants be removed.

V. EXHAUSTION OF LEGAL REMEDIES

30. Plaintiff JEVON EVERETT, used the prisoner grievance procedure available Allegheny County Jail to try and resolve the problem. On 4-19-2008, plaintiff Jevon Everett, presented the facts relating to this complaint. On February 17, 2012 plaintiff Jevon Everett, was sent a copy of the response stating that the grievance had never been responded to, nor signed and no Disposition was taken. Plaintiff Jevon Everett, was never able to Appeal because no Disposition was ever given. Plaintiff Jevon Everett, filed a Complaint 4-13-2010 to the Western District Court.

VI. LEGAL CLAIMS

31. Plaintiff reallege and incorporate by reference paragraphs 1-30.

32. The strip search, restraints, tasing, broken fingers, migrains headaches, hole in buttocks, heart problems, chest pains, holes in lung and breathing problems, quivering throat, muscle spasm, nervous system spasm, PTSD, burns marks from tasers, deliberate indifference to medical needs violated plaintiff Jevon Everett's rights and constituted a due process violation, cruel and unusual punishment under the 1,3,4,5,6,8,9,13,14th Amendment to the United States Constitution.

33. Plaintiff Jevon Everett, pro se, has no plain, adequate or remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this Court grants declaratory and injunctive relief which plaintiff seeks.

VII. PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully prays that this Honorable Court enter judgment granting plaintiff:

A declaration that the acts and omissions described herein violated plaintiff's right under the Constitution and laws of the United States.

A preliminary and permanent injunction ordering defendants Sgt. Rubel, Sgt. Coulter, C.O. Pindel, C.O. Chronister, C.O. Nort to stop forcing inmates to Biometric Finger Printing for the purpose of Comminsary and or alternative motives.

Compensatory damages in the amount of \$100,000.00 against each defendant.

Punitive damages in the amount of \$125,000.00 against each defendant.

A jury trial on all issues triable by jury

Plaintiff's cost in this suit

Any additional relief this Court deems just, proper, and equitable.

Dated: 5-31-2012

Respectfully submitted,

Jevon Everett

JEVON EVERETT

Doc.# HW-1387

P.O. Box 244

Graterford, Pa. 19426

VERIFICATION

I have read the foregoing Amended Complaint and hereby verify that the matters alleged therein are true, and correct, as to the matters alleged on the information and belief, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Montgomery County at Graterford, Pa. on

(s) Jevon Everett

Jevon Everett

Doc.#HW-1387

5-31-2012

CERTIFICATE OF SERVICE

I, JEVON EVERETT, plaintiff, do hereby certify that a true and correct copy of the forgoing Amended Complaint was served on the following by U.S. Postage Paid Mail.

United States District Court United States District Magistrate
Judge Cynthia Reed Eddy, For the Western District of Pennsylvania
Pittsburgh, Pa. 15230

Date: 5-31-2012

Jevon Everett